

Amendment and Response
Title: "Improved Dispensing System for Double Stack Carton"
Filed: July 24, 2003

Atty Docker No. R029 1281

REMARKS

Claims 1-39 are pending in the present application. Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and allowance of the application.

Allowable Subject Matter

Claims 1-19 and 29-35 were indicated as being indefinite but as including allowable subject matter. These claims have been amended to overcome the rejections under 35 U.S.C. § 112 and are now in condition for allowance.

Claims 21-23 were indicated as including allowable subject matter but as being objected to as depending from a rejected independent claim.

Rejections under 35 U.S.C. § 112

Claims 1-19, 21-23 and 29-35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant respectfully traverses.

Applicant has amended the claims as indicated below¹ in response to the rejections under 35 U.S.C. § 112:

In claim 1, lines 10-11, claim 10, line 10, and claim 14, line 10, "said" has been changed to "the."

In claim 1, line 13, "a bottom side panel adjacent to said bottom panel and said top panel, and a top side panel adjacent to said bottom panel and said top panel" are recited to more clearly recite the panels of the carton, and to provide antecedent basis for "said bottom side panel" in line 13 and for "said top side panel" in line 17. Claims 10 and 14 have been similarly amended.

¹ The citation to specific lines within the claims correspond to the line numbers of the claims as presented in the Preliminary Amendment filed January 6, 2005, and as noted in the Office Action mailed March 1, 2005.

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The reference to "the dispenser" has been deleted from line 16 of claim 1.

In line 24 of claim 1, and in line 39 of claim 10, the spelling of "exiting" has been corrected.

In claims 1, 10 and 14, the term "dispenser" replaces "dispenser opening."

In line 26 of claim 1, "the end" has been changed to "said one end." Claims 10 and 14 have been similarly amended.

In line 7 of claim 3, "said" has been changed to "side."

In claims 21 and 33, the divider first top and bottom ends are recited as folded about at least one fold line.

Claim 29 has been amended so that the term "comprising" refers more clearly to the method recited therein. Also, the divider first top and bottom ends are recited as folded about at least one fold line.

Claims 30 and 34 have been amended to more clearly recite both a bottom layer and a top layer of containers.

These amendments are presented to address alleged indefiniteness in the claims, and are not intended to limit the scope of the claims in any way. Applicant submits that the above amendments obviate the rejections under 35 U.S.C. § 112.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 20 and 24-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Oliff et al.* (U.S. Pat. No. 5,368,194). Applicant respectfully traverses.

The Examiner states that *Oliff* discloses a carton and a plurality of containers in two tiers, the carton comprising a bottom panel 18, a bottom side panel 14, a top panel 12, a top side panel 22, a plurality of flaps 30, 34, 68, 72, and a divider 90 located between the tiers and having first and second divider ends at 94 and 98. The Examiner further states that the first divider end has a "split" 96 that divides the first divider end 94 into a first top end (between 104 and 96) and a first bottom end 94.

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Claim 20 recites an enclosed carton and a plurality of containers, the carton having:

... a divider located between said first and second tiers of containers, said divider having a first divider end and a second divider end, said first divider end having a first split that divides said first divider end into a first top end and a first bottom end

Referring to *Oliff*, Figure 4 illustrates a dividing insert 90 having a main panel 92, an end flap 94 at one end of the main panel 92, and an end flap 98 at an opposite end of the main panel 92. The end flap 94 is attached to the main panel 92 at a fold line 96. In the rejection, the Examiner equates the fold line 96 to the claimed "first split." Applicant traverses on the grounds that the fold line 96 cannot be considered a "split." Applicant also traverses the Examiner's statement that the end flap 94 and the end flap 98 are "first and second divider ends," and that the portion of the insert 90 between the fold line 96 and the tear line 104 is a "first top end." Referring to Figure 4 of *Oliff*, this construction places the "first top end" *between* the "first bottom end" 94 and the "second end" 98, which is contrary to the common understanding of the term "end."

In light of the above remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) based on *Oliff*.

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CONCLUSION

In view of the above remarks, Applicant respectfully asserts that the rejections of the claims as set forth in the Office Action have been addressed and overcome. Applicant further respectfully asserts that all claims are in condition for allowance and requests that an early notice of allowance be issued.

If issues may be resolved through Examiner's Amendment, or clarified in any manner, please call the undersigned attorney at (404) 879-2443.

The Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account No. 09-0528.

4/4/05
Date

Respectfully submitted,

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